

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI

**v.
ANTOINE L. CLARK**

RESPONDENT,

APPELLANT.

DOCKET NUMBER WD77974

DATE: February 9, 2016

Appeal From:

Jackson County Circuit Court
The Honorable Justine E. Del Muro, Judge

Appellate Judges:

Special Division: Cynthia L. Martin, Presiding Judge, Gary D. Witt, Judge and Zel M. Fischer,
Special Judge

Attorneys:

Daniel N. McPherson, Jefferson City, MO, for respondent.

Patrick W. Peters and Clayton E. Gillette, Kansas City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI,

RESPONDENT,

v.

ANTOINE L. CLARK,

APPELLANT.

No. WD77974

Jackson County

Before Special Division: Cynthia L. Martin, Presiding Judge, Gary D. Witt, Judge, and Zel M. Fischer, Special Judge

Appellant, Antoine Clark ("Clark"), challenges the trial court's judgment finding him guilty of one count of voluntary manslaughter and one count of armed criminal action. On appeal, Clark raises three points of error: (1) the court should have excluded all the State's evidence as a sanction for the State's discovery violations; (2) there was insufficient evidence to overcome Clark's claim of self-defense; and (3) the court improperly relied on suppressed evidence during sentencing.

AFFIRMED.

Special Division holds:

- (1) The trial court did not err in failing to exclude all of the State's evidence as a sanction for the State's discovery violations. Under Rule 25.18 the trial court had discretion in choosing the appropriate sanction. Clark refused the court's offer of a continuance to allow him time to fully review the newly produced discovery and could articulate no prejudice suffered from the delay in production. Further, Clark did not demonstrate that accepting the court's offer of a continuance would have forced him to give up his right to a speedy trial under the Sixth Amendment.
- (2) The trial court did not err in finding Clark guilty of voluntary manslaughter because there was sufficient testimony and evidence to overcome Clark's claim of self-defense. Several witnesses testified that Clark calmly shot the victim twelve times. The victim was in a defensive posture during at least some of the shots. Following the shooting, Clark fled the scene. Accordingly, there was sufficient evidence to find Clark was not acting in self-defense.

- (3) The trial court did not improperly rely on suppressed evidence during sentencing. The court relied on Clark's flight from the scene as an aggravating factor in sentencing. It did not rely on the fact that Clark was arrested in Kansas--a suppressed piece of evidence--as argued by Clark.

Opinion by: Gary D. Witt, Judge

February 9, 2016

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